

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
IN RE: METHYL TERTIARY BUTYL :
ETHER ("MTBE") PRODUCTS :
LIABILITY LITIGATION :
----- :
This document relates to: :
: :
New Jersey Dep't of Env'l Prot., et al. v. :
Atlantic Richfield Co., et al., :
Case No. 08 Civ. 00312 :
----- X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #
DATE 01/18/11

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

ORDER PURSUANT TO RULE 502(d) OF THE FEDERAL RULES OF EVIDENCE

SHIRA A. SCHEINDLIN, U.S.D.J.:

1. If, in connection with this litigation, information subject to a claim of attorney-client privilege or attorney work product protection is disclosed ("Disclosed Protected Information"), the disclosure of the Disclosed Protected Information shall not constitute or be deemed a waiver or forfeiture of any claim of privilege or work product protection that a party would otherwise be entitled to assert with respect to the Disclosed Protected Information and its subject matter either in this litigation or in any other federal or state litigation.

2. A party may assert, in writing, the attorney-client privilege or work

product protection with respect to Disclosed Protected Information. The receiving party shall, within ten business days of receipt of that written assertion, return, sequester, or destroy all copies of the Disclosed Protected Information and provide a certification of counsel that all such Disclosed Protected Information has been returned, sequestered or destroyed.

3. Within ten business days of the notification that such Disclosed Protected Information has been returned, sequestered or destroyed, the party claiming privilege shall produce a privilege log with respect to the Disclosed Personal Information.

4. The receiving party may move the Court for an order compelling production of the Disclosed Protected Information (a “Privilege Motion”). The Privilege Motion shall be filed under seal and shall not assert waiver as a ground for entering such an order based solely on the fact or circumstances of the production.

5. The party claiming privilege retains the burden of establishing the privileged or protected nature of any Disclosed Protected Information. Nothing in this Paragraph shall limit the right of any party to petition the Court for an *in camera* review of the Disclosed Protected Information. Documents that are produced that contain privileged information or attorney work product (and all

copies of such documents) shall be immediately returned if the documents appear privileged or appear to be attorney work product.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
January 14, 2011

-Appearances-

Liaison Counsel for Plaintiffs:

Robin Greenwald, Esq.
Robert Gordon, Esq.
Weitz & Luxenberg, P.C.
180 Maiden Lane
New York, New York 10038
Tel: (212) 558-5500
Fax: (212) 344-5461

Liaison Counsel for Defendants:

Peter John Sacripanti, Esq.
James A. Pardo, Esq.
McDermott Will & Emery LLP
50 Rockefeller Plaza, 11th Floor
New York, New York 10020
Tel: (212) 547-5583
Fax: (212) 547-5444

Counsel for NJDEP:

Thomas P. Gressette, Jr., Esq.
Richardson, Patrick,
Westbrook & Brickman, LLC
1037 Chuck Dawley Blvd., Building A
(843) 727-6595

Scott E. Kauff, Esq.
Law Offices of John K. Dema, P.C.
11300 Rockville Pike, Suite 112
Rockville, MD 20852
(301) 881-5900

Leonard Z. Kaufmann, Esq.
Cohn Lifland Pearlman
Herrmann & Knopf, LLC
Park 80 West - Plaza One
250 Pehle Avenue, Suite 401
Saddle Brook, NJ 07663
(201) 845-9600

Barry A. Knopf, Esq.
Cohn Lifland Pearlman
Herrmann & Knopf, LLC
Park 80 West - Plaza One
250 Pehle Avenue, Suite 401
Saddle Brook, NJ 07663
(201) 845-9600

Counsel for ExxonMobil:

Stephen J. Riccardulli, Esq.
James A. Pardo, Esq.
McDermott Will & Emery, LLP
340 Madison Avenue
New York, NY 10173
(212) 547-5631

Counsel for Shell:

Alec C. Zacaroli, Esq.
Wallace King Domike & Reiskin
2900 K Street NW, Suite 500
Washington, DC 20007
(202) 965-6021

Counsel for El Paso Corporation:

Dawn A. Ellison, Esq.
Greenberg Traurig LLP
2101 L St., NW, Suite 1000
Washington, DC 20037
(202) 331-3101

Counsel for CITGO:

Pamela R. Hanebutt, Esq.
Eimer Stahl Klevorn & Solberg, LLP
224 South Michigan Ave., Suite 1100
Chicago, IL 60604
(312) 660-7625

Counsel for Sunoco:

Daniel M. Krainin, Esq.
Beveridge & Diamond, P.C.
477 Madison Avenue, 15th Floor
New York, NY 10022
(212) 702-5417